

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

JAMES HANNA,

Petitioner,

-vs-

TODD ISHEE, Warden,

Respondent.

:

:

:

Case No. 1:03-cv-801

District Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz

---

---

**DECISION AND ORDER GRANTING IN PART AND DENYING IN PART PETITIONER'S  
MOTION FOR ADDITIONAL DISCOVERY AND RENEWED MOTION FOR PROSECUTOR'S  
FILE**

---

---

This capital habeas corpus case is before the Court on Petitioner's Motion for Additional Discovery and Renewed (Doc. No. 69) which Respondent opposes (Doc. No. 71). Petitioner seeks to depose Investigator Scott Male of the Warren County Prosecutor's Office to access the Warren County Prosecutor's complete file regarding the State of Ohio versus James Hanna, and to conduct a records deposition related to that file.

While the Court is inclined to agree with Respondent's counsel's analysis, to wit, that Petitioner has not yet demonstrated that it is likely that the additional discovery will disclose relevant evidence on Petitioner's *Brady* claim, the Court concludes it creates no substantial harm to Respondent to "close the loop" on this issue by allowing the discovery requested.

Accordingly, Petitioner's Motion is granted as follows:

1. Petitioner may take the deposition of Scott Male.
2. Petitioner may issue a subpoena duces tecum for the Warren County Prosecutor's file with respect to this case, as part of a subpoena for the records custodian of that file. Although the parties have not discussed the question, it would seem likely that the Warren County

Prosecutor would raise work product questions regarding that production. Those issues will be litigated when and if they are raised.

3. The discovery permitted by this Order shall be completed not later than July 31, 2006.

June 5, 2006.

s/ Michael R. Merz  
Chief United States Magistrate Judge